

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #1	CCRB Case #: 201802906	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/14/2018 5:15 PM	Location of Incident: FDR Drive southbound at East 125th Street, PSA5 Stationhouse	Precinct: 25	18 Mo. SOL 10/14/2019	EO SOL 10/14/2019	
Date/Time CV Reported Sat, 04/14/2018 6:53 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 04/14/2018 6:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Georgia Madouros	03474	922683	HWY 01
2. POM Justin Allen	06922	948605	HWY 01
3. POM Maurice Harrington	06286	934992	HWY 01
4. POM Jose Santini	11211	956237	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Konstantin Vithoulkas	07173	954410	HWY 01
2. POM Peter Tannazzo	19656	952278	HWY 01
3. POM Shaun Milito	16285	960943	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POM Maurice Harrington	Force: On the FDR Drive at East 125th Street, Police Officer Maurice Harrington used physical force against § 87(2)(b)	
B.POM Justin Allen	Abuse: On the FDR Drive at East 125th Street, Police Officer Justin Allen threatened to arrest § 87(2)(b)	
C.SGT Georgia Madouros	Abuse: On the FDR Drive at East 125th Street, Sergeant Georgia Madouros seized § 87(2)(b)'s property.	
D.SGT Georgia Madouros	Abuse: On the FDR Drive at East 125th Street, Sergeant Georgia Madouros damaged § 87(2)(b)'s property.	
E.POM Maurice Harrington	Discourtesy: On the FDR Drive at East 125th Street, Police Officer Maurice Harrington spoke discourteously to § 87(2)(b)	
F.POM Jose Santini	Abuse: At the PSA5 Stationhouse, Police Officer Jose Santini did not process § 87(2)(b)'s complaint regarding officers.	

### Case Summary

§ 87(2)(b) filed this complaint on April 14, 2018 on the CCRB's call processing system.

On April 14, 2018 at approximately 5:15PM, § 87(2)(b) was riding his motorcycle on the FDR Drive southbound at East 125<sup>th</sup> Street when he saw Police Officer Maurice Harrington, Police Officer Justin Allen, and Sergeant Georgia Madouros, all of Highway District 1, standing in the highway. PO Harrington allegedly pushed § 87(2)(b)'s chest (**Allegation A: Physical Force:** § 87(2)(g)). While issuing § 87(2)(b) summonses, PO Allen allegedly told § 87(2)(b) that he could be arrested (**Allegation B: Abuse of Authority:** § 87(2)(g)). Sgt. Madouros authorized the seizure of § 87(2)(b)'s motorcycle (**Allegation C: Abuse of Authority:** § 87(2)(g)). While asking § 87(2)(b) to step off his motorcycle, Sgt. Madouros allegedly purposely dropped § 87(2)(b)'s motorcycle to the ground, causing exterior damage (**Allegation D: Abuse of Authority:** § 87(2)(g)). PO Harrington, who was informed of § 87(2)(b)'s career as an active duty US Army Sergeant, called § 87(2)(b) "an embarrassment to his service" (**Allegation E: Discourtesy:** § 87(2)(g)). § 87(2)(b) then walked to the PSA 5 Stationhouse and spoke to Police Officers Jose Santini and Shaun Milito. § 87(2)(b) allegedly asked to file a complaint against the Highway officers, which PO Santini allegedly refused to process (**Allegation F: Abuse of Authority:** § 87(2)(g)). PO Allen issued § 87(2)(b) a summons for each of the following violations: riding between white lines, uninspected motorcycle, obstructed license plate, and an unapproved helmet.

§ 87(2)(b) took videos with his cell phone at both the scene of his stop and at the PSA 5 stationhouse. There is also video taken from the PSA 5 stationhouse cameras, which do not have audio, that capture § 87(2)(b)'s conversation with PO Santini and PO Milito. These videos are linked in the report where relevant. The full videos can be found in Board Reviews 01, 02, and 03. An attorney was consulted in regards to this case. No dashcam footage from Highway 1 was available of this incident.

### Findings and Recommendations

#### **Allegation A-Force: On the FDR Drive at East 125th Street, Police Officer Maurice Harrington used physical force against § 87(2)(b)**

§ 87(2)(b) testified that while driving his motorcycle southbound on the FDR drive, he saw officers at 124<sup>th</sup> Street pulling over motorcycles so when he saw PO Harrington, PO Allen, and Sgt. Madouros standing in the middle of the road at 125<sup>th</sup> Street, he assumed that they wanted to pull him over (Board Review 04). PO Harrington was standing near the middle lane and PO Allen and Sgt. Madouros were standing in either the right or left lane. § 87(2)(b) then weaved through the parked cars and slowly pulled up to the front of the middle lane, a few feet in front of PO Harrington and veered to the left toward the shoulder of the highway, so that he would not be directly facing the officer and because he assumed the officers would want him to pull over at the left shoulder. PO Harrington walked toward him and placed his hand on § 87(2)(b)'s chest. § 87(2)(b) believed that PO Harrington did this with an open palm but it may have been his thumb. § 87(2)(b) did not experience immediate pain from this as he was too concerned with trying not to let his motorcycle fall. § 87(2)(b) was surprised by the officer putting his hand on him. This motion, which § 87(2)(b) described as "very forceful" caused § 87(2)(b) to lose balance and

almost fall off of his motorcycle. § 87(2)(b) who was upset, asked PO Harrington why he touched him. PO Harrington responded, “Are you kidding? You were about to run.” PO Allen and Sgt. Madorous also stated that § 87(2)(b) was trying to run. § 87(2)(b) explained that he was a sergeant in the Army and had no reason to run from law enforcement. § 87(2)(b) denied ever trying to evade police officers.

There is no video footage regarding this allegation.

On the night of the incident, § 87(2)(b) went to § 87(2)(b) because the push aggravated a previous back injury that he sustained in a motorcycle accident. § 87(2)(b)'s medical records state that his chief complaint was being pushed (Privileged Documents). An X-Ray was conducted and no fractures or abnormalities were found. § 87(2)(b) was advised to take ibuprofen for his pain.

PO Harrington, PO Allen, and Sgt. Madouros all stated that when they first observed § 87(2)(b) he was illegally riding his motorcycle between the white lines of the highway (Board Reviews 05, 06, 07). PO Allen and PO Harrington both testified that they put their hands in front of their chests to signal § 87(2)(b) to stop. PO Allen testified that multiple verbal instructions were issued to § 87(2)(b) to stop his motorcycle. Sgt. Madouros stated that she felt their presence of standing in the road was enough to signal § 87(2)(b) to stop. All of the officers corroborated § 87(2)(b) in that once a few feet away from the officers, § 87(2)(b) veered to the left, which made them believe he was about to try and evade them or strike them with his motorcycle.

PO Harrington stated that when § 87(2)(b) veered to left, PO Harrington pushed § 87(2)(b) with two hands on his right shoulder. This caused § 87(2)(b) to lean over to the left. It appeared that § 87(2)(b) was about to fall off the motorcycle. § 87(2)(b) hit the brake and said, “Calm down, take it easy. Relax, relax.” PO Allen grabbed § 87(2)(b)'s left shoulder to prevent him from falling and PO Harrington then ran over to § 87(2)(b)'s right side and grabbed his right arm.

Patrol Guide Procedure 221-01 states that any use of force must be reasonable under the circumstances and that in determining whether force is reasonable, members of service should consider whether the subject is attempting to evade arrest by flight.

§ 87(2)(g)  
[REDACTED]

**Allegation B-Abuse of Authority: On the FDR Drive at East 125th Street, Police Officer Justin Allen threatened to arrest § 87(2)(b)**

§ 87(2)(b) alleged that after approximately 30 minutes, he saw PO Allen approaching him with summonses in his hand. § 87(2)(b) put on his helmet and got on his motorcycle in preparation to leave. PO Allen then started to “lecture” § 87(2)(b) but § 87(2)(b) could not recall the details of this lecture. § 87(2)(b) told PO Allen to spare him the lecture and that the officers would receive karma for the way they treated him. PO Allen said, “I could lock you up”. § 87(2)(b) then offered his hands to PO Allen and said, “Lock me up. If you could lock me up, lock me up.” At this point, Sgt. Madouros approached.

There is no video footage regarding this allegation.

PO Allen stated that when he issued the summonses to § 87(2)(b) started yelling about how he should not be receiving summonses. PO Allen stated that he may have told § 87(2)(b) that he could be arrested but he did not remember when he stated this. PO Allen stated that § 87(2)(b) responded to this by saying, “Lock me up.” PO Allen explained that § 87(2)(b) could have legally been arrested for any of the violations that he was ultimately given summonses for.

Patrol Guide Procedure 208-01 states an officer has a right to arrest an individual for petty offenses, such as violations and traffic infractions, committed in his presence (Board Review 08).

Evans v. Solomon, 681 F. Supp. 2d 233 (2010) established that when an officer has probable cause to believe that a traffic violation has occurred in the officers’ presence, the officer can use his discretion to arrest the motorist, or issue a summons in lieu of arrest (Board Review 09).

§ 87(2)(g)  
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**Allegation C-Abuse of Authority: On the FDR Drive at East 125th Street, Sergeant Georgia Madouros seized § 87(2)(b) s property.**

**Allegation D-Abuse of Authority: On the FDR Drive at East 125th Street, Sergeant Georgia Madouros damaged § 87(2)(b) s property.**

§ 87(2)(b) testified that when Sgt. Madouros came over to where he and PO Allen were arguing, she told him that he needed to take his summonses and leave. § 87(2)(b) responded that he could not leave because PO Allen had his keys as well as the summonses. Sgt. Madouros then said, “You’re not going anywhere now. The tow truck is here. You had your chance. Get off the motorcycle.” Sgt. Madouros then grabbed the right handlebar of the motorcycle and § 87(2)(b) got off the motorcycle while her hand was still on it. The kickstand was not extended. After § 87(2)(b) got off the motorcycle, the motorcycle fell to the ground and landed on its left side. § 87(2)(b) could not say for sure that Sgt. Madouros purposely let the motorcycle fall or if it was an

accident but he believed that she did it on purpose. Sgt. Madorous outstretched her hand as if she was going to catch the motorcycle and save it from falling but she was unable to do so. The plastic was damaged and oil leaked. During a conversation on July 12, 2018, § 87(2)(b) stated that he had yet to fix the exterior damage caused during this incident (Board Review 10).

There is no video footage that captures the part of the incident where the motorcycle was allegedly dropped. However, § 87(2)(b) started recording while the motorcycle was on the ground. In the video, attached below (also located in Board Review 11) § 87(2)(b)'s motorcycle is shown on the ground. No damage is visible. § 87(2)(b) accuses Sgt. Madouros of dropping his motorcycle, saying, "White officer just dropped my fucking motorcycle...any damage on this bike, she has to fix it. She held it, told me to get off of it, and she dropped it." § 87(2)(b) then walked up to Sgt. Madouros and filmed her while she stood silently. The full video can be found in Board Review 01.



201802906\_20180717\_1012\_DM.mp4

All the officers, including PO Vithoulkas (Board Review 12), corroborated § 87(2)(b) in that § 87(2)(b)'s kickstand was not down at the time when Sgt. Madouros told him to exit his motorcycle. All of the officers denied that Sgt. Madouros purposely dropped § 87(2)(b)'s motorcycle to the ground and stated that she tried to grab the motorcycle to prevent it from falling but the momentum was too much and she could not catch it. None of the officers saw any damage to § 87(2)(b)'s motorcycle.

PO Allen testified that when he gave § 87(2)(b) the two summonses for white-lining and obstructed plates, he also gave his keys back. While § 87(2)(b) was yelling about the summonses, PO Allen walked away, thinking that § 87(2)(b) would eventually just leave. However, § 87(2)(b) got off his motorcycle and followed PO Allen, yelling at him for approximately five more minutes. At some point, Sgt. Madouros came over and tried to calm § 87(2)(b) down. § 87(2)(b) initially sat back on his motorcycle. Then he became angry and started yelling again. § 87(2)(b) then got off of his motorcycle. At this point, PO Allen called for a tow truck to tow § 87(2)(b)'s motorcycle because § 87(2)(b) was refusing to leave the location when asked to do so multiple times. Sgt. Madouros told PO Allen that at that point, it was not necessary to tow the motorcycle. § 87(2)(b) then went back up on his motorcycle and it initially appeared like he was going to leave. § 87(2)(b) threw his helmet off toward the road. At that point, Sgt. Madouros said that they were going to tow the motorcycle. When picking up § 87(2)(b)'s helmet, PO Allen noticed that it was unapproved. When the tow truck arrived at the location, Sgt. Madouros instructed § 87(2)(b) to step off of the motorcycle. § 87(2)(b) got off the motorcycle put his hands up. PO Allen did not know if Sgt. Madouros had her hand on the motorcycle at the point when § 87(2)(b) exited the motorcycle. § 87(2)(b) complained that the motorcycle was damaged but PO Allen did not remember what he said the damage was.

Sgt. Madouros stated that when she heard § 87(2)(b) yelling at PO Allen, she went over to attempt to mediate their dispute. PO Allen informed Sgt. Madouros that he called a tow truck but Sgt. Madouros told him to wait and that the situation may resolve itself. § 87(2)(b) seemed to calm down after speaking to Sgt. Madouros. § 87(2)(b) got on his motorcycle, had his helmet on, and was about to leave the location. § 87(2)(b) started the motorcycle but before he left, he threw his helmet and goggles on the ground. At this point, Sgt. Madouros determined that § 87(2)(b) was not in “the right emotional state” to drive and that it was unsafe for both him and the public for § 87(2)(b) to drive when he was that angry. Sgt. Madouros told § 87(2)(b) to get off the motorcycle and took his keys out of the ignition.

Legal Bureau Bulletin #223-13, issued by the NYPD Legal Department on May 6, 2013 states that an officer may seize a motorcycle for safekeeping if they are summonsed for one or more of the following violations: obstructed license plate, improper or no helmet, lack of a rearview mirror, lack of a license, or an uninspected motorcycle (Board Review 17). An officer may seize the motorcycle if they make the determination that the vehicle cannot be lawfully operated; the vehicle can either be taken to a Department facility or be retrieved with a tow truck.

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation E-Discourtesy: On the FDR Drive at East 125th Street, Police Officer Maurice Harrington spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that after the tow truck arrived at the location, he walked back and forth on the shoulder of the highway recording the officers. PO Harrington, who was sitting in his vehicle, told § 87(2)(b) that he was “an embarrassment to his service.” § 87(2)(b) stated that this remark made him feel disrespected as an Army soldier.

This allegation is captured on § 87(2)(b)'s cell phone video. PO Harrington told § 87(2)(b) that he is “an embarrassment to his service.” § 87(2)(b) responds to this by saying, “You’re a fucking embarrassment.” The relevant portion is attached below and the full video can be found in Board Review 01.



201802906 Snagit (15 secs).mp4

PO Harrington stated that he was aware that § 87(2)(b) was a member of the US Army because he told the officers that he was a sergeant and that he showed his military ID to him and PO Allen. PO Harrington initially denied telling § 87(2)(b) that he was an embarrassment to his service. After watching the video located in Board Review 12, PO Harrington acknowledged saying it to § 87(2)(b) because of § 87(2)(b)'s refusal to leave the area.

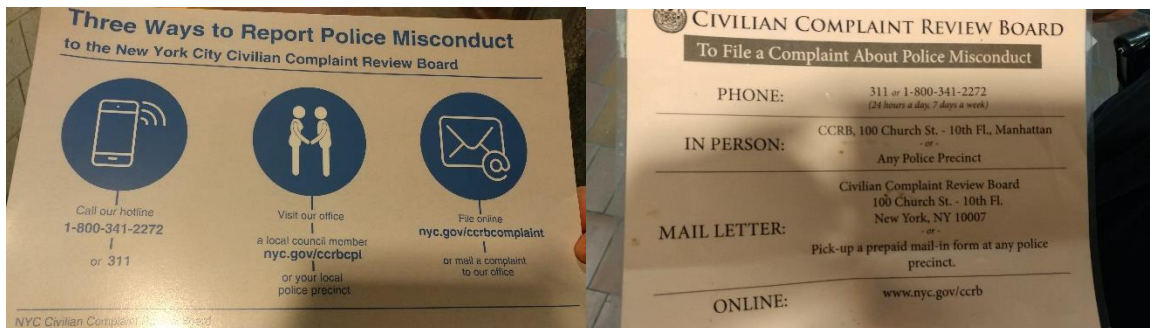
Patrol Guide Procedure 203-09 requires that officers be courteous and respectful in their interactions with the public.

§ 87(2)(g)  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

**Allegation F-Abuse of Authority: At the PSA5 Stationhouse, Police Officer Jose Santini did not process § 87(2)(b)'s complaint regarding officers.**

§ 87(2)(b) alleged that after his motorcycle was towed, he walked to the PSA5 stationhouse with the intention of filing a complaint against the police officers. When § 87(2)(b) walked into the stationhouse, he was approached by an officer, who he could only describe as a uniformed white male. § 87(2)(b) told the officer, identified by the investigation as PO Santini, that he was assaulted by a police officer and that his property was damaged and seized. PO Santini said that they do not take reports against police officers and there was nothing they do. PO Santini said this complaint had to be taken to the CCRB and showed § 87(2)(b) a sign for the CCRB and told him that he should contact the CCRB. § 87(2)(b) took photos of the signs (Board Reviews 13, 14) and then left the stationhouse.

The signs that § 87(2)(b) took photos of are entitled “Three ways to report police misconduct to the New York City Civilian Complaint Review Board.” The flyer lists the CCRB’s intake phone number, the CCRB’s website, and states that the complaint can be made in person at the CCRB’s office or at any police precinct. The photos that § 87(2)(b) took of the flyer are attached below.



While in the foyer of the stationhouse, § 87(2)(b) recorded a video of himself narrating the fact that he was not permitted to file a complaint in the stationhouse. The video is located in Board Review 02. § 87(2)(b) then exited the stationhouse and called the CCRB. At :06 seconds in the video, § 87(2)(b) stated, “I stopped by the precinct to make a complaint. They gave me a board to take pictures...They say I cannot do a report inside the precinct.”



201802906 Video.mp4

There was also video from the stationhouse cameras at PSA5; this video does not capture audio and is located in Board Review 03. The video captures § 87(2)(b) walking to the gate at the stationhouse and at :16 in the video, PO Milito approaches him and they speak. At :32 in the video, PO Santini joins the conversation. At :51 seconds, PO Milito and PO Santini leave and at 2:01 in the recording, PO Santini comes back with the signs that § 87(2)(b) took photos of. At 2:48, § 87(2)(b) walked away and at 3:15, he is shown recording the above video with his cell phone.



201802906 Stationhouse Video.mp4

PO Santini, who was working as the telephone/switchboard operator on the day of the incident, testified that § 87(2)(b) came into the stationhouse and asked him how to make a complaint against a police officer (Board Review 15). PO Santini did not recall if § 87(2)(b) said why he wanted to make a complaint. After § 87(2)(b) stated he wanted to make a complaint, PO Santini went behind the desk to a poster board and saw a laminated paper entitled “Three Ways to Make a CCRB Complaint.” PO Santini showed § 87(2)(b) these papers, who took pictures of them, and then left the stationhouse. PO Santini did not recall what the three ways to make a CCRB complaint were. PO Santini did not read the poster board beyond the title. The photo of the poster board was presented to PO Santini during his CCRB interview. PO Santini was directed to the part of the poster where it stated that a complaint could be made “at your local precinct.” PO Santini stated he did not read this at the time of the incident. The day of the incident was PO Santini’s first and last time working as a T/S operator and he was never asked how to make a complaint prior to this interaction. PO Santini acknowledged being unfamiliar with the procedure of taking a CCRB complaint. PO Santini did not recall if § 87(2)(b) asked to make the complaint at the stationhouse. PO Santini did not tell § 87(2)(b) that he could not make the complaint at the stationhouse but did not recall offering to take § 87(2)(b)’s complaint at the stationhouse.

PO Milito did not have an independent recollection of this incident (Board Review 16). The video captured by stationhouse cameras was presented to PO Milito. PO Milito stated he recalled speaking to § 87(2)(b) but did not recall any details of this conversation. § 87(2)(b) did not ask to file a complaint regarding police officers because if he did, PO Milito would have taken the complaint as that is procedure.



According to Patrol Guide Procedure 207-31, an officer must process a civilian complaint when made in person, which includes preparation of the civilian complaint report form in the complainant's own handwriting, furnishing assistance to the complainants, and having the individuals sign the complaint form in the appropriate section.

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)  
[REDACTED]
  - [REDACTED]  
[REDACTED]
- Police Officer Maurice Harrington has been a member of service for 14 years and has been a subject in nine CCRB complaints and 13 allegations, of which one was substantiated.
  - 200810117 involved a substantiated allegation of a nightstick as a club against PO Harrington. The Board recommended Charges and the NYPD imposed Instructions.
  - § 87(2)(g)  
[REDACTED]
- Police Officer Justin Allen has been a member of service for eight years and has been a subject in three CCRB complaints and seven allegations, of which three were substantiated.
  - 201404833 involved substantiated allegations of a chokehold, restricting breathing, and an entry against PO Allen. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A in regards to the chokehold and the entry but declined to prosecute the restricting breathing.
  - § 87(2)(g)  
[REDACTED]
- Sergeant Georgia Madouros has been a member of service for 19 years and has been a subject in one prior CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)  
[REDACTED]  
[REDACTED]

- Police Officer Jose Santini has been a member of service for four years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated.

§ 87(2)(g)

### **Mediation, Criminal, and Civil Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of June 26, 2018, the New York City Office of the Comptroller has no record of a notice of claim filed in regards to this incident.
- According to DMV court records, on § 87(2)(b), § 87(2)(b) pled not guilty to all of the summonses he received during this incident. His next court date is scheduled for § 87(2)(b).
- § 87(2)(b) does not have any known criminal convictions.

Squad No.: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date